

103^D CONGRESS
2^D SESSION

S. 2536

To encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for health care services provided without charge, except in cases of gross negligence or willful misconduct, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, SEPTEMBER 12), 1994

Mr. DANFORTH (for himself, Ms. MOSELEY-BRAUN, and Mr. DOMENICI)
introduced the following bill; which was read the first time

A BILL

To encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for health care services provided without charge, except in cases of gross negligence or willful misconduct, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Charitable Medical
5 Care Act of 1994”.

1 **SEC. 2. EXEMPTION OF HEALTH CARE PROFESSIONALS**
2 **FROM NEGLIGENCE LIABILITY IN THE PROVI-**
3 **SION OF HEALTH CARE SERVICES WITHOUT**
4 **CHARGE.**

5 (a) LIMITED LIABILITY.—

6 (1) IN GENERAL.—Subject to subsection (b), a
7 health care professional who is licensed or certified
8 to furnish health care services by the appropriate
9 authorities for practice in a State shall not be liable
10 for any civil damages for any act or omission result-
11 ing from the rendering of a health care service de-
12 scribed in paragraph (2) unless the act or omission
13 was the result of gross negligence or willful mis-
14 conduct.

15 (2) HEALTH CARE SERVICE DESCRIBED.—A
16 health care service described in this paragraph is a
17 health care service voluntarily rendered by a health
18 care professional—

19 (A) within the scope of the health care pro-
20 fessional's license or certification; and

21 (B) without charge to the recipient of such
22 service (or any health insurance plan or pro-
23 gram under which the recipient is covered).

24 (b) REQUIREMENTS PRIOR TO FURNISHING THE
25 SERVICE.—Subsection (a)(1) shall apply only if a health
26 care professional before furnishing a health care service—

1 (1) agrees to furnish the health care service vol-
2 untarily and without charge to the recipient of such
3 service (or any health insurance plan or program
4 under which the recipient is covered); and

5 (2) provides the recipient of the health care
6 service with adequate notice as determined by the
7 Secretary of HHS of the health care professional's
8 limited liability with respect to the service.

9 (c) PREEMPTION.—The provisions of this section
10 shall preempt any State law to the extent such law is in-
11 consistent with such provisions. The provisions of this sec-
12 tion shall not preempt any State law that provides greater
13 incentives or protections to a health care professional ren-
14 dering a health care service described in subsection (a)(2).

15 (d) EFFECTIVE DATE.—This section shall apply with
16 respect to health care services furnished on or after the
17 date of the enactment of this Act.

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